

AMENDED IN ASSEMBLY APRIL 4, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 608**

**Introduced by Assembly Member Calderon**

February 17, 2005

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An act to amend ~~Section 789~~ *Sections 789.10 and 10127.7* of the Insurance Code, relating to the ~~Insurance Commissioner~~ *life insurance*.

LEGISLATIVE COUNSEL'S DIGEST

AB 608, as amended, Calderon. ~~Insurance Commissioner Life insurance.~~

*Existing law regulates the sale of life insurance, in particular sales to seniors, including annuities, as specified.*

*This bill would require any person who meets with seniors in the home to discuss the purchase of certain policies as specified, to deliver a notice to the senior prior to the start of the meeting and to submit the signed notice with the application for purchase of that policy.*

*Existing law provides that life insurance policies with a face value of less than \$10,000, issued after July 1, 1974, shall contain a notice permitting the return of the policy within a period of time designated in the notice, which may not be less than 10 or more than 30 days.*

*This bill would provide that a life insurance policy or annuity with a face value of \$15,000 or less, issued after January 1, 2006, shall contain a notice permitting the return of the policy within 30 days.*

~~Existing law provides for the authority of the commissioner to administer penalties and enforce the provisions of the Insurance Code.~~

~~This bill would make technical, nonsubstantive changes to this provision.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 789 of the Insurance Code is amended~~  
2     ~~to read:~~

3     ~~SECTION. 1. Section 789.10 of the Insurance Code is~~  
4     ~~amended to read:~~

5     789.10. (a) This section applies to the sale, offering for sale,  
6     or generation of leads for the sale of life insurance, including  
7     annuities, to senior insureds or prospective insureds by any  
8     person.

9     (b) Any person who meets with a senior in the senior's home  
10    is required to deliver a notice in writing to the senior no less than  
11    24 hours prior to that individual's initial meeting in the senior's  
12    home. If the senior has an existing insurance relationship with an  
13    agent and requests a meeting with the agent in the senior's home  
14    the same day, a notice shall be delivered to the senior prior to the  
15    start of the meeting. *Any person who meets with a senior in the*  
16    *senior's home, to discuss the purchase of specific life insurance*  
17    *policies or annuities having an initial face amount of fifteen*  
18    *thousand dollars (\$15,000) or less that are designated by the*  
19    *purchaser for payment of funeral and burial expenses, shall be*  
20    *required to deliver a notice to the senior prior to the start of the*  
21    *meeting. The notice must be signed by the senior and submitted*  
22    *with any application if the senior purchases the policy. The*  
23    notice shall be in substantially the following form, with the  
24    appropriate information inserted, in 14-point type:

25    “(1) During this visit or a followup visit, you will be given a  
26    sales presentation on the following [indicate all that apply]:

27    ( ) Life insurance, including annuities  
28    ( ) Other insurance products [specify]: \_\_\_\_\_.

29    (2) You have the right to have other persons present at the  
30    meeting, including family members, financial advisors or  
31    attorneys.

32    (3) You have the right to end the meeting at any time.

33    (4) You have the right to contact the Department of Insurance  
34    for information, or to file a complaint. [The notice shall include  
35    the consumer assistance telephone numbers at the department]

(5) The following individuals will be coming to your home: [list all attendees, and insurance license information, if applicable]”

(c) Upon contacting the senior in the senior’s home, the person shall, before making any statement other than a greeting, or asking the senior any other questions, state that the purpose of the contact is to talk about insurance, or to gather information for a followup visit to sell insurance, if that is the case, and state all of the following information:

(1) The name and titles of all persons arriving at the senior’s home.

(2) The name of the insurer represented by the person, if known.

(d) Each person attending a meeting with a senior shall provide the senior with a business card or other written identification stating the person’s name, business address, telephone number, and any insurance license number.

(e) The persons attending a meeting with a senior shall end all discussions and leave the home of the senior immediately after being asked to leave by the senior.

(f) A person may not solicit a sale or order for the sale of an annuity or life insurance policy at the residence of a senior, in person or by telephone, by using any plan, scheme, or ruse that misrepresents the true status or mission of the contact.

*SEC. 2. Section 10127.7 of the Insurance Code is amended to read:*

10127.7. Every policy of individual life insurance, *or annuity* with ~~a an~~ initial face value of ~~less than ten~~ *fifteen* thousand dollars ~~(\$10,000)~~ *(\$15,000)* or less, which is delivered or issued for delivery in this state on and after ~~July 1, 1974~~ *January 1, 2006*, shall have printed thereon or attached thereto a notice stating that, after receipt of the policy by the owner, the policy may be returned by the owner for cancellation by delivering it or mailing it to the insurer or to the agent through whom it was purchased. The period of time set forth by the insurer for return of the policy by the insured shall be clearly stated on the notice and this period shall be not less than ~~10 days nor more than~~ 30 days. The insured may return the policy to the insurer at any time during the period specified in the notice. This delivery or mailing of the policy by the owner shall void the policy from the

beginning, and the parties shall be in the same position as if no policy or contract had been issued. All premiums paid and any policy fee paid for the policy shall be refunded to the owner.

This section applies to all policies issued, ~~amended, or delivered in this state on or after January 1, 1981, but prior to January 1, 1990,~~ *January 1, 2006* and applies to any renewal thereof. All policies subject to this section which are in effect on ~~January 1, 1981,~~ *January 1, 2006* shall be construed to be in compliance with this section, and any provision in such a policy which is in conflict with this section shall be of no force or effect.

This section does not apply to individual life insurance policies issued in connection with a credit transaction or issued under a contractual policy change or conversion privilege provision contained in a policy.

~~789. (a) The commissioner shall have the administrative authority to assess penalties against insurers, brokers, agents, and other entities engaged in the transaction of insurance or any other person or entity for violating this article.~~

~~(b) Upon a showing of a violation of this article in any civil action, a court may also assess the penalties prescribed in this chapter.~~

~~(c) Anytime the commissioner has reasonable cause to believe or determines after a public hearing that any insurer, agent, broker, or other person or entity engaged in the transaction of insurance, has violated this article the commissioner shall make and serve upon the insurer, broker, agent, or other person or entity a notice of hearing. The notice shall state the commissioner's intent to assess the administrative penalties, the time and place of the hearing, and the conduct, condition or ground upon which the commissioner is holding the hearing, and assessing the penalties. The hearing shall occur within 30 days after the notice is served. Within 30 days after the hearing the commissioner shall issue an order specifying the amount of the penalties to be paid. The penalties resulting from the hearing shall be paid to the Insurance Fund.~~

~~(d) The powers vested in the commissioner by this section shall be in addition to any and all powers and remedies vested in the commissioner by law.~~

1     ~~(e) Actions for injunctive relief, penalties specified in Section~~  
2     ~~789.3, damages, restitution, and all other remedies in law, may be~~  
3     ~~brought in superior court by the Attorney General, district~~  
4     ~~attorney, or city attorney on behalf of the people of California.~~  
5     ~~The court shall award reasonable attorney's fees and court costs~~  
6     ~~to the prevailing plaintiff who establishes a violation of this~~  
7     ~~article.~~

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